

# Senate File 476 - Introduced

SENATE FILE 476  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO SSB 1178)

## A BILL FOR

1 An Act relating to qualified immunity of law enforcement  
2 officers, the peace officer, public safety, and emergency  
3 personnel bill of rights, uniform commercial code filings,  
4 and protected information of law enforcement officers and  
5 state or federal judicial officers and prosecutors.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

QUALIFIED IMMUNITY

Section 1. NEW SECTION. **669A.1 Findings.**

The general assembly finds the following:

1. Qualified immunity is intended for all but the plainly incompetent or those who knowingly violate the law and is meant to give law enforcement officials leeway to make reasonable mistakes of fact and law.

2. The United States supreme court has observed that qualified immunity balances two important interests: the need to hold law enforcement officers accountable when law enforcement officers exercise power irresponsibly and the need to shield law enforcement officers from harassment, distraction, and liability when law enforcement officers perform their duties reasonably.

Sec. 2. NEW SECTION. **669A.2 Definitions.**

For purposes of this chapter, unless the context otherwise requires:

1. "*Action for damages*" means any case brought in a court organized under the laws of this state in which the plaintiff seeks any amount of monetary compensation, including but not limited to claims alleging constitutional or statutory violations.

2. "*Constitution*" means the Constitution of the United States or the Constitution of the State of Iowa.

3. "*Law enforcement officer*" means any federal, state, tribal, or local official who is authorized by law to engage in or supervise the prevention, detection, investigation, or incarceration of any person for any violation of law, and has statutory powers of arrest, apprehension, detention, or incarceration. "*Law enforcement officer*" includes but is not limited to a peace officer, employee of the department of public safety, employee of the department of corrections, and employee of a judicial district's department of correctional services.

1     4. "Other law" means any statutory or common law, whether  
2 federal or state.

3     Sec. 3. NEW SECTION.   **669A.3 Liability — law enforcement**  
4 **officers.**

5     A law enforcement officer subject to any action for damages  
6 in the law enforcement officer's individual capacity shall not  
7 be found liable if such law enforcement officer is entitled to  
8 qualified immunity. If the right secured by the constitution  
9 or any other law was not clearly established at the time of the  
10 alleged deprivation by the law enforcement officer, or at that  
11 time, the state of the law was not sufficiently clear that a  
12 reasonable law enforcement officer would have understood that  
13 the conduct alleged constituted a violation of the constitution  
14 or any other law, then the officer shall be entitled to  
15 qualified immunity. The plaintiff must plead facts showing  
16 that the law enforcement officer violated a constitutional or  
17 statutory right, and shall bear the burden of establishing that  
18 the alleged right was clearly established at the time the law  
19 enforcement officer's conduct occurred.

20     Sec. 4. NEW SECTION.   **669A.4 Liability — agency or**  
21 **political subdivision.**

22     An agency or political subdivision who employed a law  
23 enforcement officer subject to an action governed by this  
24 chapter shall not be liable for such action if the law  
25 enforcement officer is found not liable under section 669A.3  
26 and the law enforcement officer was acting within the scope of  
27 the law enforcement officer's employment with the agency or  
28 political subdivision.

29     Sec. 5. NEW SECTION.   **669A.5 Applicability of law.**

30     To the extent any other provision of Iowa law provides less  
31 protection to law enforcement officers than this chapter, this  
32 chapter supplants that law.

33

## DIVISION II

34     PEACE OFFICER, PUBLIC SAFETY, AND EMERGENCY PERSONNEL BILL OF  
35                                   RIGHTS

1     Sec. 6. Section 80F.1, subsection 1, paragraph a, Code 2021,  
2 is amended to read as follows:

3     a. "*Complaint*" means a formal written allegation signed  
4 by the complainant or a signed written statement by an  
5 officer receiving an oral complaint stating the complainant's  
6 allegation.

7     Sec. 7. Section 80F.1, subsections 3, 5, 8, 9, 13, and 18,  
8 Code 2021, are amended to read as follows:

9     3. a. A formal administrative investigation of an officer  
10 shall be commenced and completed in a reasonable period of  
11 time ~~and an.~~ An officer shall be immediately notified in  
12 writing of the preliminary results of the investigation when  
13 the investigation is completed and any recommendations for the  
14 disposition of the complaint and discipline.

15     b. Upon initiating a formal administrative investigation  
16 of an officer, the investigating agency shall promptly serve  
17 the officer under investigation with written notice of the  
18 complaint, shall inform the officer of the officer's right to  
19 counsel, and shall provide the officer with a copy of the peace  
20 officer bill of rights. The notice shall include the names of  
21 all of the complainants, the alleged date of the occurrence  
22 giving rise to the complaint, a summary of the factual  
23 allegations against the officer, and the name and rank or title  
24 of the investigator in charge of the formal administrative  
25 investigation.

26     5. a. An officer who is the subject of a complaint, shall  
27 at a minimum, be provided a written summary of the complaint  
28 prior to an interview. If a collective bargaining agreement  
29 applies, the complaint or written summary shall be provided  
30 pursuant to the procedures established under the collective  
31 bargaining agreement. If the complaint alleges domestic abuse,  
32 sexual abuse, or sexual harassment, an officer shall not  
33 receive more than a written summary of the complaint.

34     b. Upon written request of the officer or the officer's  
35 legal counsel, the employing agency shall provide to the

1 officer or the officer's legal counsel a complete copy of the  
2 officer's incident reports and the officer's video or audio  
3 recordings from the incident giving rise to the complaint  
4 without unnecessary delay prior to an interview of the officer.

5 8. a. The officer shall have the right to have the  
6 assistance of legal counsel present, at the officer's expense,  
7 during the interview of the officer, during hearings, or during  
8 other disciplinary or administrative proceedings related to the  
9 complaint. In addition, the officer shall have the right, at  
10 the officer's expense, to have a union representative present  
11 during the interview or, if not a member of a union, the  
12 officer shall have the right to have a designee present.

13 b. The officer's legal counsel, union representative, or  
14 employee representative shall not be compelled to disclose in  
15 any judicial proceeding, nor be subject to any investigation  
16 or punitive action for refusing to disclose, any information  
17 received from the officer under investigation or from an agent  
18 of the officer. The officer and the officer's legal counsel  
19 may coordinate and communicate in confidence with the officer's  
20 designated union representative or employee representative,  
21 and the communications are not subject to discovery in any  
22 proceeding.

23 9. If a formal administrative investigation results in  
24 the removal, discharge, or suspension, or other disciplinary  
25 action against an officer, copies of any witness statements  
26 and the complete investigative agency's report shall be timely  
27 provided to the officer upon the request of the officer or the  
28 officer's legal counsel upon request at the completion of the  
29 investigation.

30 13. An In addition to any other remedies available, an  
31 officer shall have the right to pursue civil remedies under the  
32 law against a citizen any person, group of persons, employer,  
33 organization, or corporation for damages arising from the  
34 filing of a false complaint against the officer or any other  
35 violation of this chapter including but not limited to actual

1 damages, court costs, and reasonable attorney fees.

2 18. A municipality, county, or state agency employing  
3 an officer shall not publicly release the officer's official  
4 photograph without the written permission of the officer or  
5 without a request to release pursuant to [chapter 22](#). An  
6 officer's personal information including but not limited to the  
7 officer's home address, personal telephone number, personal  
8 electronic mail address, date of birth, social security number,  
9 and driver's license number shall be confidential and shall be  
10 redacted from any record prior to the record's release to the  
11 public by the employing agency. Nothing in this subsection  
12 prohibits the release of an officer's photograph or unredacted  
13 personal information to the officer's legal counsel, union  
14 representative, or designated employee representative upon the  
15 officer's request.

16 Sec. 8. Section 80F.1, Code 2021, is amended by adding the  
17 following new subsections:

18 NEW SUBSECTION. 20. The employing agency shall keep  
19 an officer's statement, recordings, or transcripts of any  
20 interviews or disciplinary proceedings, and any complaints  
21 made against an officer confidential unless otherwise provided  
22 by law or with the officer's written consent. Nothing in  
23 this section prohibits the release of an officer's statement,  
24 recordings, or transcripts of any interviews or disciplinary  
25 proceedings, and any complaints made against an officer to  
26 the officer or the officer's legal counsel upon the officer's  
27 request.

28 NEW SUBSECTION. 21. An agency employing full-time or  
29 part-time officers shall provide training to any officer or  
30 supervisor who performs or supervises an investigation under  
31 this section, and shall maintain documentation of any training  
32 related to this section. The Iowa law enforcement academy  
33 shall adopt minimum training standards not inconsistent with  
34 this subsection, including training standards concerning  
35 interviewing an officer subject to a complaint.

1     NEW SUBSECTION. 22. Upon request, the employing agency  
2 shall provide to the requesting officer or the officer's legal  
3 counsel a copy of the officer's personnel file and training  
4 records regardless of whether the officer is subject to a  
5 formal administrative investigation at the time of the request.

6                                   DIVISION III

7                                   UNIFORM COMMERCIAL CODE FILINGS

8     Sec. 9. Section 554.9516, Code 2021, is amended by adding  
9 the following new subsection:

10    NEW SUBSECTION. 5. *Fraudulent filings.*

11    *a.* The filing office may refuse to accept a financing  
12 statement that it determines is not created pursuant to the  
13 uniform commercial code, or is otherwise intended for an  
14 improper purpose, such as to hinder, harass, or otherwise  
15 wrongfully interfere with any person. The filing office may  
16 also refuse to accept a financing statement that names the same  
17 person as both debtor and secured party, describes collateral  
18 not within the scope of applicable law, or is being filed for  
19 a purpose other than a transaction within the scope of the  
20 uniform commercial code.

21    *b.* If the filing office becomes aware that a financing  
22 statement or other record was not created pursuant to the  
23 uniform commercial code, or was otherwise intended for an  
24 improper purpose, such as to hinder, harass, or otherwise  
25 wrongfully interfere with any person, the filing office  
26 shall review the record and relevant circumstances and, if it  
27 determines that the record was wrongfully filed, the record  
28 shall be deemed void and ineffective; and the filing office  
29 shall remove the record from the index and communicate the  
30 foregoing to the person that presented the wrongfully filed  
31 record and to other persons, as appropriate.

32                                   DIVISION IV

33                                   PROTECTED INFORMATION

34    Sec. 10. Section 331.604, subsection 3, Code 2021, is  
35 amended by adding the following new paragraph:

1     NEW PARAGRAPH.   *f.* Upon request by a law enforcement  
2 officer, as defined in section 80B.3, or state or federal  
3 judicial officer or state or federal prosecutor, the recorder  
4 or the recorder's staff shall redact the requestor's name  
5 contained in electronic documents that are displayed for public  
6 access through an internet site. This paragraph does not apply  
7 to a requestor holding or seeking public office. The recorder  
8 shall implement and maintain a process to facilitate these  
9 requests. A fee shall not be charged for the administration  
10 of this paragraph.

11       Sec. 11. Section 622.10, subsection 9, paragraphs a and b,  
12 Code 2021, are amended to read as follows:

13       a. A peer support group counselor or individual present  
14 for a group crisis intervention who obtains information from  
15 an officer or a civilian employee of a law enforcement agency  
16 or fire department by reason of the counselor's capacity as a  
17 peer support group counselor or an individual's presence for  
18 a group crisis intervention shall not be allowed, in giving  
19 testimony, to disclose any confidential communication properly  
20 entrusted to the counselor or individual present for a group  
21 crisis intervention by the officer or civilian employee while  
22 receiving counseling or group crisis intervention.

b. The prohibition in this subsection does not apply where the officer or civilian employee has consented to the disclosure of the information specified in paragraph "a" or where the peer support group counselor or individual present for a group crisis intervention was an initial responding officer, a witness, or a party to the incident which prompted the delivery of peer support group counseling services or the group crisis intervention to the officer or civilian employee.

### EXPLANATION

32           The inclusion of this explanation does not constitute agreement with  
33           the explanation's substance by the members of the general assembly.

34 This bill relates to qualified immunity of law enforcement  
35 officers, the peace officer, public safety, and emergency



1 personnel bill of rights, uniform commercial code filings, and  
2 protected information of law enforcement officers and state  
3 or federal judicial officers and prosecutors. The bill is  
4 organized into divisions.

5     DIVISION I — QUALIFIED IMMUNITY. Under the bill, the  
6 general assembly finds that qualified immunity is intended  
7 for all law enforcement officers except for law enforcement  
8 officers who are incompetent or knowingly violate the law and  
9 that as the United States supreme court has observed, qualified  
10 immunity balances the need to hold law enforcement officers  
11 accountable when law enforcement officers exercise their  
12 power irresponsibly and the need to shield law enforcement  
13 officers from harassment, distraction, and liability when law  
14 enforcement officers perform their duties reasonably.

15     The bill defines "law enforcement officer" to mean any  
16 federal, state, tribal, or local official who is authorized  
17 by law to engage in or supervise the prevention, detection,  
18 investigation, or incarceration of any person for any violation  
19 of law, and has statutory powers of arrest, apprehension,  
20 detention, or incarceration. "Law enforcement officers"  
21 include but are not limited to peace officers, employees of  
22 the department of public safety, employees of the department  
23 of corrections, and employees of a judicial district's  
24 department of correctional services. The bill defines "action  
25 for damages" to mean any case brought in a court organized  
26 under the laws of this state in which the plaintiff seeks any  
27 amount of monetary compensation, including but not limited to  
28 claims alleging constitutional or statutory violations. The  
29 bill defines "constitution" to mean the Constitution of the  
30 United States or the Constitution of the State of Iowa. The  
31 bill defines "other law" to mean any statutory or common law,  
32 whether federal or state.

33     The bill provides that a law enforcement officer subject  
34 to any action for damages in the law enforcement officer's  
35 individual capacity shall not be found liable if such law

1 enforcement officer is entitled to qualified immunity. If a  
2 constitutional or statutory right was not clearly established  
3 at the time of the alleged deprivation by the law enforcement  
4 officer, or at that time, the state of the law was not  
5 sufficiently clear that a reasonable law enforcement officer  
6 would have understood that the conduct alleged constituted a  
7 violation of law, then the officer is entitled to qualified  
8 immunity. The plaintiff must plead facts showing that the law  
9 enforcement officer violated a right, and bears the burden of  
10 establishing that the alleged right was clearly established at  
11 the time the law enforcement officer's conduct occurred.

12 The bill provides liability protection for an agency or  
13 political subdivision who employed a law enforcement officer  
14 subject to an action governed under the new Code chapter shall  
15 not be liable if the law enforcement officer is found not  
16 liable under the provisions of the bill and the law enforcement  
17 officer was acting within the scope of employment with the  
18 agency or political subdivision.

19 The bill provides that the applicability of the new Code  
20 chapter supersedes any other provision of Iowa law that  
21 provides less protection to law enforcement officers.

22 DIVISION II — PEACE OFFICER, PUBLIC SAFETY, AND EMERGENCY  
23 PERSONNEL BILL OF RIGHTS. The bill modifies the definition  
24 of "complaint" in Code section 80F.1 (peace officer, public  
25 safety, and emergency personnel bill of rights) to mean a  
26 formal written allegation signed by the complainant or a signed  
27 written statement by an officer receiving an oral complaint  
28 stating the complainant's allegation.

29 The bill provides that an officer shall be immediately  
30 notified in writing of any preliminary results from a formal  
31 administrative investigation and any recommendations for the  
32 disposition of the complaint and discipline. Upon initiation  
33 of the formal administrative investigation, an officer shall  
34 be promptly served with written notice of the complaint, be  
35 informed of the officer's right to counsel, and be provided

1 with a copy of the peace officer bill of rights. The written  
2 notice shall include: names of all the complainants, alleged  
3 date of the occurrence, summary of the factual allegations, and  
4 the name and rank or title of the investigator in charge of the  
5 formal administrative investigation.

6 The bill provides that the officer shall have a right  
7 to legal counsel at the expense of the officer during the  
8 interview, hearings, or other disciplinary or administrative  
9 proceedings related to the complaint. The officer's legal  
10 counsel, union representative, or employee representative shall  
11 not be compelled to disclose during any judicial proceeding  
12 any information received from the officer under investigation  
13 or from an agent of the officer. An officer's legal counsel,  
14 union representative, or employee representative shall not be  
15 subject to any investigation or punitive action for refusing to  
16 disclose any information. The bill provides that the officer  
17 and officer's legal counsel may coordinate and communicate in  
18 confidence with the officer's designated union representative  
19 or employee representative and those communications shall not  
20 be subject to discovery.

21 The bill provides that if a formal administrative  
22 investigation results in removal, discharge, suspension, or  
23 other disciplinary action against the officer, the complete  
24 investigative reports shall be timely provided to the officer  
25 or officer's legal counsel upon request at the completion of  
26 the investigation.

27 The bill provides that an officer's personal information  
28 shall be redacted from any record prior to the record's release  
29 to the public. An officer's photograph or unredacted personal  
30 information may be released to the officer's legal counsel,  
31 union representative, or designated employee representative  
32 upon the officer's request.

33 The bill provides that an officer may bring a private cause  
34 of action, including but not limited to an action for money  
35 damages, against any person for filing a false complaint

1 against the officer.

2 The bill provides that an officer's personal information,  
3 including certain personal information specified in the bill,  
4 shall be confidential and shall be redacted from any record  
5 prior to the record's release to the public by an employing  
6 agency. The bill provides that the following information shall  
7 also be kept confidential: an officer's statement, recordings,  
8 or transcripts of any interviews or disciplinary proceedings,  
9 and any complaints made against an officer.

10 The bill provides that an agency shall provide training to  
11 any person who performs or supervises an investigation under  
12 the bill. The Iowa law enforcement academy shall adopt minimum  
13 training standards not inconsistent with the bill including  
14 training standards concerning interviewing an officer subject  
15 to a complaint.

16 The bill provides that upon request, the employing agency  
17 shall provide to a requesting officer or the officer's legal  
18 counsel a copy of the officer's personnel file and training  
19 records regardless of whether the officer is subject to a  
20 formal administrative investigation at the time of the request.

21 DIVISION III — FRAUDULENT FILINGS — UNIFORM COMMERCIAL  
22 CODE. The bill provides that a filing office may refuse to  
23 accept a financing statement that is determined to not have  
24 been created pursuant to the UCC, is intended for an improper  
25 purpose, names the same person as both the debtor and the  
26 secured party, describes collateral not within the scope  
27 of applicable law, or is filed for a purpose other than a  
28 transaction within the scope of the UCC. If the filing office  
29 becomes aware that a financial statement or other record was  
30 not created pursuant to the UCC or was intended for an improper  
31 purpose, the filing office shall review the record and relevant  
32 circumstance, and determine if the record was wrongfully filed.  
33 If the record is wrongfully filed, it shall be deemed void and  
34 ineffective and the filing office shall remove the record from  
35 the index and communicate that to the person who filed the

1 record and to other persons, as appropriate.

2     DIVISION IV — PROTECTED INFORMATION. The bill provides  
3 that upon request by a law enforcement officer, state or  
4 federal judicial officer or prosecutor, the recorder or the  
5 recorder's staff shall redact the requester's name contained in  
6 electronic documents displayed for public access, unless the  
7 person is holding or seeking public office. A fee shall not be  
8 charged to redact the requester's name.

9     The bill provides that a peer support group counselor  
10 or individual present for a group crisis intervention who  
11 obtains information from a law enforcement officer, fire  
12 fighter, or civilian employee of a law enforcement agency or  
13 fire department shall not be allowed, in giving testimony, to  
14 disclose any confidential communication properly entrusted to  
15 the counselor or individual by the law enforcement officer,  
16 fire fighter, or civilian employee while receiving counseling.  
17 However, the law enforcement officer, fire fighter, or civilian  
18 employee may consent to the disclosure. Under current law,  
19 this evidentiary rule applies to communications between peer  
20 support group counselors and law enforcement officers or fire  
21 fighters.